



NEWS RELEASE

CALIFORNIA STATE TREASURER PHIL ANGELIDES

FOR IMMEDIATE RELEASE
March 26, 2003

Contact: Mitchel Benson
(916) 653-4052

TREASURER ANGELIDES SPONSORS LEGISLATION TO CRACK DOWN ON EXPATRIATE FIRMS THAT FLEE U.S. SOIL

*Legislation by Senators Burton and Speier Would Ban
State Contracts for 'Expatriates,' Close Tax Loopholes*

SACRAMENTO, CA – Treasurer Phil Angelides today announced he is sponsoring two bills aimed at cracking down on publicly traded U.S. corporations that move their headquarters – in name only – to offshore havens like Bermuda and the Cayman Islands to avoid taxes and weaken shareholder rights.

“This corporate conduct is particularly unconscionable at the very time when our State is struggling to cover the costs of police, firefighters, education and mental health,” said Angelides, who was joined at today’s news conference by representatives of State firefighter, law enforcement and labor groups, “and at a time when our nation must shoulder the heavy responsibilities of national defense and homeland security.” The Treasurer added that while “these expatriate companies want to enjoy the benefits of operating in the world’s strongest economy, they are not willing to meet their corporate responsibilities.”

One of the bills, SB 640, authored by Senator John Burton, would prohibit the State of California from contracting with any publicly held U.S. corporations that have “expatriated,” or moved their place of incorporation, to tax havens where they have no substantial business activities.

"I don't think it makes a lot of sense for the State of California to do business with companies that go offshore in order to avoid our tax, labor and shareholder rights laws," Burton said. "If they want to do business with us and get the benefits of operating in this state then they shouldn't leave. Everyone else has to abide by our rules and pay U.S. taxes and so should they."

The other, to be authored by Senator Jackie Speier, would close tax loopholes that allow these expatriates to avoid paying their fair share of California taxes. Currently, these loopholes cost the State an estimated \$10 million annually in corporate income tax revenues, and are projected to cost \$132 million over the next 10 years. If the tax loopholes are not closed, and if the number of corporations choosing to expatriate continues to grow at the current rate, then California will lose even more – an estimated \$180 million in tax revenues over the next 10 years.

"These companies cannot have it both ways," Speier said. "They can't pretend to be American companies except when it comes to paying their fair share of taxes. We must close this loophole immediately."

Angelides said that "Today, there is perhaps no greater symbol of corporate irresponsibility than the practice of expatriation. It is a growing trend that has a direct, detrimental effect on shareholders. Just as important, it represents – to millions of shareholders – the type of corporate practice that has undermined the trust of Americans in the essential fairness of our financial system."

Fewer than two dozen U.S. companies, out of more than 6,000 publicly held corporations, have chosen to engage in this practice, moving their headquarters in name only to offshore havens like Bermuda, Barbados, and the Cayman Islands. But it is a growing trend. According to the independent Investor Responsibility Research Center, 14 publicly traded U.S. corporations have reincorporated offshore since 1996, and six of those did so just last year.

Art Pulaski, Executive Secretary Treasurer of the California Labor Federation, AFL-CIO, which is co-sponsoring SB 640 and strongly supporting the Speier bill, said, "At the very time when we are fighting to restore the public's faith in our financial system and reinvigorate our economy, and when our nation is facing unprecedented challenges to our national security, we must do all we can to convince these companies to heed the call: Come Home to America."

Offshore incorporation generally makes it more difficult for shareholders to hold officers and directors legally accountable for malfeasance, and to collect judgments when they have been harmed. In addition, it can make it more difficult for shareholders to prevent a company from selling off a substantial portion of its assets without their approval.

The Treasurer has been especially active in this area for quite some time. In July 2002, for example, Angelides banned the State's \$53 billion Pooled Money Investment Account (PMIA) from investing in publicly held U.S. corporations that reincorporate in offshore tax havens. He also prohibited the State Treasurer's Office from contracting with or engaging in any business dealings with expatriate U.S. companies. And as a board member of the California Public Employees' Retirement System and California State Teachers' Retirement System, the Treasurer urged both public pension funds – the nation's first and third largest – to back shareholder resolutions calling on expatriate companies such as Tyco International Ltd. to reincorporate back in the United States. These efforts are part of the Treasurer's more broadly based ***Power of the Purse*** campaign, which urges institutional investors to vigorously use their market strength to advance an agenda of corporate reform.

Angelides said it is particularly important that state governments take the lead today on such matters of corporate responsibility. "The Bush Administration and the Republican leadership in Congress have blocked federal legislation to crack down on these companies," he said, "thwarting efforts to deny expatriates federal contracts and close costly federal tax loopholes."

With today's announcement in Sacramento, California joins several other states, including Massachusetts, Minnesota, Montana, Pennsylvania and Texas, where legislation is pending that either would eliminate State tax benefits or preclude corporate expatriates from receiving State contracts. In addition, the State of North Carolina already has passed a new law that prohibits any State agency from signing new contracts with expatriate companies.

In addition to the California Labor Federation, other co-sponsors of each or both of the bills include the California Conference of Machinists and the American Federation of State, County and Municipal Employees (AFSCME).

(Attachments)

To view a partial list of U. S. corporations that have relocated to offshore tax havens, click on the link below.

[Publicly Held U.S. Corporations Identified as Expatriating to Offshore Tax Havens](#)

(Partial list based on information available as of 12/31/03)

OFFICE OF THE TREASURER

P. O. BOX 942809

SACRAMENTO, CA 94209-0001

**The California Taxpayer and Shareholder Protection Act of 2003****SB 640****(Burton)****FACT SHEET****SUMMARY**

SB 640, authored by Senator John Burton and sponsored by State Treasurer Phil Angelides, would prohibit the State of California and any of its agencies from contracting with companies that are publicly held U.S. expatriate corporations. The California Labor Federation, the California Conference of Machinists and the American Federation of State, County and Municipal Employees (AFSCME) also are co-sponsors of this legislation.

BACKGROUND

For the past two years, the integrity and stability of our financial markets has been buffeted by cascading revelations of corporate misconduct. This breakdown in corporate responsibility and ethics has shaken the very foundations of our financial institutions, damaged our economy, and harmed millions of Americans.

Today, there is perhaps no greater symbol of corporate irresponsibility than the practice of expatriation. It is a growing trend that has a direct, detrimental effect on shareholders. Just as important, it represents – to millions of shareholders – the type of corporate practice that has undermined the trust of Americans in the essential fairness of our financial system.

A small handful of U.S. companies, out of more than 6,000 publicly held corporations, have chosen to engage in this practice, moving their headquarters – in name only – to offshore havens like Bermuda, Barbados, and the Cayman Islands, to avoid taxes and weaken shareholder rights. Simply put, this practice is not fair to all other publicly traded companies that meet their corporate responsibilities, and that pay their fair share of state and federal corporate income taxes.

Particularly reprehensible is that these publicly held U.S. expatriate corporations are reaping the benefits of their relocations at a time when the State is struggling to pay for critical needs such as education, mental health and public safety, and when the nation is shouldering the heavy responsibilities of national defense and homeland security.

SB 640 has been introduced to respond to this troubling trend. Indeed, the U.S. Treasury Department has reported “a marked increase recently in the frequency, size, and profile of” these offshore relocations. According to the independent Investor Responsibility Research Center, 14 publicly traded U.S. corporations have reincorporated offshore since 1996, and six of those did so just last year.

These paper relocations enable corporations to avoid paying U.S. and California taxes and to skirt legal protections for investors, while still enjoying the benefits of operating ostensibly as U.S. companies. In addition to avoiding U.S. taxes, publicly held corporations that expatriate may avoid accountability by operating in secrecy, restricting shareholders' rights, and insulating themselves from investor claims. For example, it is more difficult for shareholders to file suits in tax-haven countries to protect their rights and, in many offshore havens, it is more difficult for shareholders to collect civil damages.

The Treasurer believes that the best way to deal with this issue is to have a strong federal law that eliminates the tax loophole and/or prohibits corporate expatriates from receiving federal contracts. Unfortunately, though, President Bush and the Republican leadership in Congress have blocked efforts to reign in this abusive practice.

Last year, for example, the Homeland Security bill was amended in the Senate to prohibit the new Homeland Security Agency from signing contracts with publicly held U.S. expatriate companies. But ranking Republicans eviscerated the bill in conference committee, stripping the contracting language from the bill. Outraged moderate Republicans agreed to vote for the new federal agency only after they asked for – and received – commitments from Republican congressional leaders to restore the contracting prohibition later. Despite those commitments, Republican leaders continue today to stymie legislative attempts to ban government contracts with expatriates and close tax loopholes.

Congress' inaction has prompted a number of states to take action. The State of North Carolina, for example, has passed a new law that prohibits any North Carolina agency from signing new contracts with expatriate companies. In addition, lawmakers in Massachusetts, Minnesota, Montana, Pennsylvania and Texas have introduced legislation either to bar their respective states from contracting with expatriate companies, or to eliminate tax loopholes for these companies.

Unless states take strong action, the Treasurer is concerned that the troubling trend of expatriation will continue to accelerate. SB 640 is consistent with the Treasurer's other recent actions designed to protect investors and taxpayers. In July 2002, for example, Angelides banned the State's \$53 billion Pooled Money Investment Account (PMIA) from investing in publicly held U.S. corporations that reincorporate in offshore tax havens. He also prohibited the State Treasurer's Office from contracting with or engaging in any business dealings with expatriate U.S. companies. And as a board member of the California Public Employees' Retirement System and California State Teachers' Retirement System, the Treasurer urged both public pension funds – the nation's first and third largest – to back shareholder resolutions calling on expatriate companies such as Tyco International Ltd. to reincorporate back in the United States.

Co-sponsors:

State Treasurer Phil Angelides
California Labor Federation, AFL-CIO
California Conference of Machinists
AFSCME

OFFICE OF THE TREASURER

P. O. BOX 942809

SACRAMENTO, CA 94209-0001

**Paying Their Fair Share:**

*Ensuring Expatriate Corporations Don't Abuse Tax Shelters
At the Expense of California Taxpayers*

(Speier)**FACT SHEET****Summary**

This bill, to be authored by Senator Jackie Speier and sponsored by State Treasurer Phil Angelides, will close loopholes that now allow publicly traded U.S. corporations that relocate offshore to avoid paying their fair share of California taxes. According to the Franchise Tax Board, California is now losing \$10 million in annual tax revenue – and will lose an estimated \$132 million over the next 10 years – as the result of corporate expatriations that have already occurred. If the number of corporations that expatriate continues to grow at the rate of the past 10 years, California will lose an estimated \$180 million in tax revenues over the next 10 years.

Background

The U.S. Treasury Department has noted “a marked increase recently in the frequency, size and profile” of corporate relocations – on paper only – to offshore tax havens such as Bermuda and the Cayman Islands. The recent wave of corporate scandals has cast a harsh light on irresponsible corporate actions like “corporate expatriations” or “corporate inversions.” A small handful of U.S.-based companies, out of more than 6,000 publicly traded U.S. corporations, have restructured as foreign corporations in lax offshore havens, enabling them to avoid federal and State taxes and skirt legal protections for investors while continuing to reap the benefits of ostensibly operating as U.S. companies. Simply put, this practice is not fair to all other publicly traded companies that meet their corporate responsibilities, and that pay their fair share of state and federal corporate income taxes.

Federal and State Governments Lose Tax Revenues Due to Expatriations

These paper relocations enable the resulting “expatriate corporations” to avoid paying their fair share of U.S. and California taxes. And these tax revenue losses come at the very time when the State is struggling to cover the costs of police, firefighters, education and mental health, and the nation must shoulder the heavy responsibilities of national defense and homeland security.

Many expatriate corporations transform significant amounts of their worldwide income from U.S.-based income to foreign-based income through “earnings stripping” transactions. Such transactions involve the U.S.-based subsidiary making deductible payments (such as interest,

management fee, or royalty payments) to the new sheltered “foreign” parent. These payments, then, reduce the effective rate of U.S. and California taxation by reducing the net income subject to taxes, and by allowing corporations to elect to calculate California taxes based on a certain share of the corporation’s U.S.-based (or water’s edge) income.

Under California’s current corporate tax system, corporations with operations in the State can choose between two methods to compute the income on which they will pay their State corporate income taxes – the “worldwide”¹ method or the “water’s edge”² method. The Franchise Tax Board estimates that approximately 75% of expatriate corporations filing in California elect the “water’s edge” method. Because an expatriate corporation can transform a large portion of its worldwide income from U.S.-based income to foreign-based income, continuing to allow the use of the water’s edge method permits these companies to reduce the net income on which the California share of corporate income is based and taxed.

What Can California Do to Overcome Abuses by Expatriate Corporations?

The State Treasurer’s Office is sponsoring State legislation authored by Senator Speier to prohibit expatriate corporations from utilizing the water’s edge election under California corporate tax law. This legislation would effectively preclude these companies from artificially excluding U.S.-based income from taxation.

The legislation would counter abuses by expatriate corporations and ensure that these corporations pay their fair share of California State corporate income taxes. The bill would eliminate – for a specific, narrow set of corporate tax filers – an option that currently exists under California law and that otherwise would not be changed. The bill would have no adverse impact on the corporate tax payments of other corporations.

Additional features of the bill include:

- The bill will “grandfather” existing taxpayer agreements between the State and expatriate corporations that already have elected the water’s-edge method. The bill would prevent the extension of those agreements beyond their current seven-year terms.
- The bill would affect only expatriate corporations that are, or would seek to become, water’s-edge filers, and other water’s-edge filers that seek to expatriate.

Co-sponsors:

State Treasurer Phil Angelides
California Conference of Machinists

¹ Under the worldwide method, California corporate taxes are paid on a certain share of the combined income of the corporation, earned both in the U.S. and abroad.

² Under the water’s-edge method, California corporate taxes are paid on a certain share of US-based (or “water’s-edge”) income of the corporation only, based on certain presumptions specified in State law on how the US-based income must be determined.

OFFICE OF THE TREASURER

P. O. BOX 942809

SACRAMENTO, CA 94209-0001

**CHRONOLOGY OF ACTIONS TAKEN BY STATE TREASURER PHIL ANGELIDES
AGAINST EXPATRIATE CORPORATIONS**

Following is a chronology of recent actions taken by State Treasurer Phil Angelides to crack down on “expatriates,” or publicly traded U.S. corporations that relocate – in name only – to offshore havens to evade U.S. taxes and skirt legal protections for investors:

- In July 2002, Angelides banned the State’s \$53 billion Pooled Money Investment Account (PMIA) from investing in publicly held U.S. corporations that reincorporate in offshore tax havens. The PMIA is comprised of State and local taxpayer funds, of which more than \$10 billion is invested in corporate securities that must be on a State-approved list. Since last July, the Treasurer has removed Ingersoll-Rand, a company that expatriated to Bermuda, from the list of eligible investments.
- Also in July 2002, the Treasurer announced that he was prohibiting the State Treasurer’s Office from contracting with or engaging in any other business dealings with expatriate U.S. companies.
- In November 2002, the Treasurer urged CalPERS (the California Public Employees’ Retirement System) the nation’s largest public pension fund, to co-sponsor and support shareholder resolutions that call on U.S. corporate expatriates such as Tyco International Ltd., McDermott International Inc., Ingersoll-Rand Co. Ltd., and Nabors Industries Ltd., to reincorporate back in the United States. In December, the Treasurer did the same with CalSTRS (the California State Teachers’ Retirement System), the nation’s third largest public pension fund. CalPERS and CalSTRS represent a combined \$225 billion in assets, including about \$299 million in investments in publicly held expatriate corporations. The Treasurer sits on the boards of both pension funds.
- Also in December 2002, Angelides and the top investment officers of nine other states, including New York, Massachusetts and Colorado, sent a letter to Standard & Poor’s, urging S&P to undertake a formal review to remove 10 offshore companies from the S&P 500 Index. S&P describes the 500 Index as the “premier index for large cap *U.S. stocks* (emphasis added).”
- This February, the Treasurer, joined by public pension funds, state- and local-government investment officials and labor unions, launched the “Come Home to America” campaign, urging expatriate companies to reincorporate back in the United States. The coalition’s first target was a shareholder resolution that called on Tyco, now headquartered in Bermuda, to “take the measures necessary” to reincorporate back in the U.S. On March 6, shareholders representing 26.4 percent of the company’s stock voted in favor, an impressive outcome for an insurgent shareholder campaign opposed by company management. In 1999, a similar shareholder resolution urging Tyco’s re-incorporation back to the United States garnered only 6.7 percent of the vote.

PUBLICLY HELD U.S. CORPORATIONS IDENTIFIED AS EXPATRIATING TO OFFSHORE TAX HAVENS

(Partial list based on information available as of 03/31/03)

<u>Company Name</u>	<u>Ticker Symbol</u>	<u>Exchange</u>	<u>Domestic Headquarters</u>	<u>Expatriation Date</u>	<u>Offshore Haven</u>
Accenture, Ltd.	ACN	NYSE	Chicago, IL	2001	Bermuda
Cooper Industries	CBE	NYSE	Houston, TX	2002	Bermuda
Everest Reinsurance Group	RE	NYSE	Liberty Corner, NJ	2000	Bermuda
Foster Wheeler, Ltd.	FWC	NYSE	Clinton, NJ	2001	Bermuda
GlobalSantaFe (Global Marine)	GSF	NYSE	Houston, TX	2001	Cayman
Helen of Troy, Ltd.	HELE	NASDAQ	El Paso, TX	1994	Bermuda
Ingersoll-Rand	IR	NYSE	Woodcliff Lake, NJ	2002	Bermuda
Leucadia National Corp *	LUK	NYSE	New York, NY	Pending	Pending
McDermott International, Inc	MDR	NYSE	New Orleans, LA	1983	Panama
Nabors Industries	NBR	AMEX	Houston, TX	2002	Bermuda
Noble Corporation (Drilling)	NE	NYSE	Sugar Land, TX	2002	Cayman
PXRE Group, Ltd.	PXT	NYSE	Edison, NJ	1999	Bermuda
Seagate Technology	STX	NYSE	Scotts Valley, CA	2002	Cayman
Transocean, Inc.	RIG	NYSE	Houston, TX	1999	Cayman
Tyco International	TYC	NYSE	Exeter, NH	1997	Bermuda
Weatherford International	WFT	NYSE	Houston, TX	2002	Bermuda
White Mountains Insurance	WTM	NYSE	Hanover, NH	1999	Bermuda
Xoma Corporation	XOMA	NASDAQ	Berkeley, CA	1999	Bermuda

Sources: Office of U.S. Representative Lloyd Doggett (Texas) based on Library of Congress records; Office of U.S. Representative Richard Neal (Massachusetts) based on various news sources; Bloomberg, recent SEC filings.

Note: Chart reflects public companies identified as of March 31, 2003, and is not reflective of the status of any company (public or private) after that date.

Investment actions by Pooled Money Investment Account, CalPERS, and CalSTRS would be contingent on independent verification.

* Leucadia National Corporation has until 2005 to move offshore, but has not actually done so.